

110TH CONGRESS
1ST SESSION

H. R. 3850

To improve the collection and use of data related to crimes of child exploitation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2007

Mr. CARNEY (for himself and Mr. CHABOT) introduced the following bill;
which was referred to the Committee on Education and Labor

A BILL

To improve the collection and use of data related to crimes
of child exploitation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Responsible and Effec-
5 tive Solutions for Children Using and Entering Online
6 Services Act of 2007”.

7 **SEC. 2. DATA RELATING TO CRIMES OF CHILD EXPLOI-**
8 **TATION.**

9 Section 227(b) of the Victims of Child Abuse Act of
10 1990 (42 U.S.C. 13032(b)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

“(3) CONTENTS OF REPORT.—

“(A) A provider of electronic communication services or remote computing services described in paragraph (1) who makes a report under that paragraph shall, to the extent possible, include in such report information related to the facts and circumstances of such report that is reasonably available to the provider, and that the provider considers to be reliable information, which may include—

“(i) any identifying information of the person who is the subject of the report, including—

“(I) a user identification or other online identifier;

“(II) an electronic mail address;

“(III) a website address; or

“(IV) a uniform resource locator;

“(ii) information pertaining to the geographic location of the person, website, or

1 URL involved in the alleged incident,
2 which may include—

3 “(I) street address;

4 “(II) telephone number;

5 “(III) area code;

6 “(IV) ZIP code; or

7 “(V) Internet Protocol address;

8 “(iii) any image of apparent child por-
9 nography that is the subject of the report;

10 “(iv) the dates and times of the inci-
11 dent of apparent child pornography, which
12 may include when images were uploaded,
13 transmitted, reported, or discovered; and

14 “(v) if not registered with the Na-
15 tional Center for Missing and Exploited
16 Children, accurate contact information for
17 such provider, including address, telephone
18 number, facsimile number, electronic mail
19 address, and an individual point of contact
20 for such provider.

21 “(B) A provider of electronic communica-
22 tion services or remote computing services who
23 makes a report under paragraph (1) and pro-
24 vides information in good faith compliance shall
25 not be considered in violation of this section.”;

(3) by amending paragraph (4) (as so redesignated by paragraph (1) of this subsection) to read as follows:

“(4) STATE, LOCAL, AND INTERNATIONAL REFERRALS.—In addition to forwarding such reports to those agencies designated in paragraph (2), the National Center for Missing and Exploited Children is authorized to forward any such report to an appropriate official of a State or subdivision of a State for the purpose of enforcing State criminal law, or to an appropriate official of a foreign law enforcement agency that—

“(A) is willing to reciprocally refer such reports to law enforcement authorities in the United States;

“(B) is a signatory to the Council of Europe Convention on Cybercrime or a Mutual Legal Assistance Treaty with the United States;

“(C) has set forth a legal basis to use the materials for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of foreign laws related to child pornography and child exploitation similar to practices prohibited by sections 2251, 2251A, 2252, 2252A, 2252B, or 2260 of title

1 18, United States Code, involving child pornog-
2 raphy (as defined in section 2256 of that title),
3 or 1466A of that title;

4 “(D) has set forth a bona fide legal basis
5 for the foreign law enforcement agency’s au-
6 thority to maintain the material in confidence;
7 and

8 “(E) is not from a foreign state that the
9 Secretary of State has determined, in accord-
10 ance with section 6(i) of the Export Adminis-
11 tration Act of 1979 (50 U.S.C. App. 2405(i)),
12 has repeatedly provided support for acts of
13 international terrorism, unless and until such
14 determination is rescinded pursuant to section
15 6(i)(4) of that Act (50 U.S.C. App.
16 2405(i)(4)).”; and

17 (4) by adding at the end the following new
18 paragraph:

19 “(6) DUTY TO PRESERVE EVIDENCE.—The At-
20 torney General shall designate necessary staff mem-
21 bers, as specified by the Attorney General, who are
22 assigned to work full-time at the National Center for
23 Missing and Exploited Children on reports of child
24 pornography to have responsibility for issuing pres-
25 ervation requests under section 2703(f) of title 18,

1 United States Code, to a provider of electronic com-
2 munication services or remote computing services to
3 preserve any records or other information related to
4 the facts or circumstances used by such provider to
5 make a report under paragraph (1) which has been
6 referred for investigation to an Internet Crimes
7 Against Children Task Force in the jurisdiction of
8 such law enforcement agency. Such preservation re-
9 quest may be issued related to—

10 “(A) a report to the Cyber Tip Line made
11 by a provider of electronic communication serv-
12 ices or remote computing services pursuant to
13 paragraph (1); or

14 “(B) a report to the Cyber Tip Line made
15 by a member of the public or a provider of elec-
16 tronic communication services or remote com-
17 puting services, if the circumstances are such
18 that the provider of electronic communication
19 services or remote computing services reason-
20 ably believes that an emergency involving the
21 immediate danger or serious physical injury to
22 any child justifies preservation.”.

1 **SEC. 3. ENHANCED IMMUNITY TO ENCOURAGE REPORTING**
2 **BY PROVIDERS.**

3 Section 227(c) of the Victims of Child Abuse Act of
4 1990 (42 U.S.C. 13032(c)) is amended to read as follows:

5 “(c) LIMITED LIABILITY.—No civil claim or criminal
6 charge may be brought in Federal or State court against
7 any provider of electronic communication services or re-
8 mote computer services on account of any action taken
9 in good faith by such provider to comply with or pursuant
10 to this section.”.

11 **SEC. 4. USE OF INFORMATION BY THE NCMEC.**

12 Section 227(f) of the Victims of Child Abuse Act of
13 1990 (42 U.S.C. 13032(f)) is amended—

14 (1) by redesignating paragraph (2) as para-
15 graph (3); and

16 (2) by inserting after paragraph (1) the fol-
17 lowing new paragraph:

18 “(2) USE OF INFORMATION TO COMBAT CHILD
19 PORNOGRAPHY.—The National Center for Missing
20 and Exploited Children is authorized to provide ele-
21 ments relating to any image, including the image
22 itself, or other relevant information reported to its
23 Cyber Tipline in accordance with this section, to any
24 provider of electronic communication services or re-
25 mote computing services for the purposes described
26 in subparagraphs (A) and (B), if such provider pro-

1 vides an assurance that such elements shall be used
2 by the provider only for the following purposes:

3 “(A) To permit such provider to stop the
4 further transmission of child pornography im-
5 ages.

6 “(B) To develop technologies to prevent
7 and detect child pornography.

8 “(C) To develop industry best practices re-
9 lated to the prevention and detection of child
10 pornography.”.

11 **SEC. 5. ADDITIONAL PROVISIONS.**

12 Section 227 of the Victims of Child Abuse Act of
13 1990 (42 U.S.C. 13032(c)) is further amended by adding
14 at the end the following new subsections:

15 “(h) STATE PREEMPTION.—Any law, regulation, pro-
16 vision, or action of any State that requires any person to
17 notify another person, governmental agency, or other enti-
18 ty regarding images of child pornography or of child sex-
19 ual exploitation displayed or transmitted on the Internet,
20 or under which liability is imposed on any person for fail-
21 ure to notify another person, a governmental agency, or
22 other entity regarding such images shall be preempted.

23 “(i) REPORTS TO CONGRESS.—

24 “(1) ANNUAL REPORT BY THE ATTORNEY GEN-
25 ERAL.—The Attorney General of the United States

1 shall submit to Congress, and make publicly avail-
2 able on the website of the Department of Justice, an
3 annual report containing—

4 “(A) the number of—

5 “(i) investigations by Federal, State,
6 and local law enforcement agencies of
7 crimes of sexual exploitation against chil-
8 dren that are initiated by a report made to
9 the National Center for Missing and Ex-
10 ploited Children under subsection (b)(1);

11 “(ii) prosecutions resulting from in-
12 vestigations by Federal, State, and local
13 law enforcement agencies of crimes of sex-
14 ual exploitation against children initiated
15 by such a report;

16 “(iii) convictions resulting from pros-
17 ecutions by Federal, State, and local au-
18 thorities of crimes of sexual exploitation
19 against children initiated by such a report;
20 and

21 “(iv) convictions of repeat offenders
22 initiated by such a report;

23 “(B) descriptions of sentences given to
24 persons convicted as a result of investigations
25 initiated by such a report;

1 “(C) the length of time between initiation
2 and completion of investigations, prosecutions,
3 and convictions initiated by such a report;

4 “(D) the results of investigation initiated
5 by such a report, including whether a closed in-
6 vestigation was reopened, the reasons an inves-
7 tigation was reopened (if applicable), and the
8 ultimate result of the investigation.

9 “(2) ANNUAL VERIFICATION REPORT BY THE
10 INSPECTOR GENERAL.—The Inspector General of
11 the Department of Justice shall submit to Congress,
12 and make publicly available on the website of the
13 Department of Justice, an independent verification
14 of the report submitted by the Attorney General in
15 accordance with paragraph (1).”.

16 **SEC. 6. EFFECTIVE DATE.**

17 This Act, and the amendments made by this Act,
18 shall take effect 180 days after the date of the enactment
19 of this Act.

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